



Simone

ATTORNEY DOCKET NO. ADV08 01007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Patent Application of Mearini, et al

Serial No.: 09/902,408

Art Unit: 1762

Filed: July 10, 2001

Examiner: Brian K. Talbot

Title: SUBSTRATE FIXTURE FOR HIGH-YIELD PRODUCTION OF THIN FILM BASE DENSE WAVELENGTH DIVISION MULTIPLEXERS

TRANSMITTAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is an Election responsive to the Office Action dated March 8, 2004, for the above-identified application.

If a Petition for an Extension of Time is necessary for the paper transmitted herewith to be timely filed, this transmittal is to be considered as a petition to extend the response period by the amount of time needed for the paper to be timely filed.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account 04-1679.

A duplicate of this sheet is enclosed.

Respectfully submitted,

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Dated: April 6, 2004



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Serial No.: 09/902,408

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Title: SUBSTRATE FIXTURE FOR HIGH-YIELD PRODUCTION OF THIN FILM
BASED DENSE WAVELENGTH DIVISION MULTIPLEXERS

ELECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Office Action dated March 8, 2004, Applicant submits the following election with **traverse**.

The examiner has required that the Applicant elect one of the following groups of claims for prosecution in this application:

- I. Claims 1-9;
- II. Claims 10-15; and
- III. Claims 16-20.

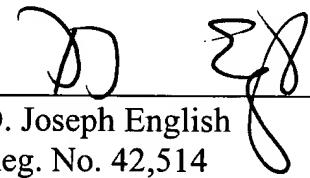
Applicant provisionally elects to prosecute the claims in Group I with **traverse**.

Reconsideration and withdrawal of the restriction requirement and examination of all claims is solicited.

With respect to the restriction between the claims in Group I and II, the examiner asserts that the inventions are unrelated. The examiner's reliance on the premise that "Group II requires a deposition process whereas Group I could be used in an etching process to produce the filter" is misplaced. Restriction of claims as "unrelated" requires that it be shown that the independent inventions are not capable of use together and they have different modes of operation. The MPEP expressly states that this situation is "rarely presented" and cites claims directed to a necktie and a locomotive bearing as an example of "unrelated" inventions that may be properly restricted. (MPEP § 808.01)

The examiner's position that the claims in Groups I and II are "unrelated" is untenable. Reconsideration and withdrawal of the restriction is solicited.

Respectfully submitted,



D. Joseph English
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